

PATENT
Atty. Dkt. No. ROC920020234US1
PS Ref. No.: IBM2K0234.Y1

REMARKS

This is intended as a full and complete response to the Office Action dated July 8, 2005, having a shortened statutory period for response set to expire on October 8, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-31 are pending in the application. Claims 1-31 remain pending following entry of this response. Claims 1, 15, and 22 have been amended to clarify the term subscriber. Applicants submit that because the claims have merely been amended for clarification, the claims, as amended, are entitled to a full range of equivalents. Applicants submit that the amendments and new claims do not introduce new matter.

Claim Rejections - 35 U.S.C. § 103

Claims 1-2, 4-7, 9, 15-23 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Knudson* (US Patent # 6,016,141) in view of *Pallakoff* (US Patent # 6,269,343) in further view of *Urakoshi* (US Patent # 6,067,564). Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP § 2143. The present rejection fails to establish at least the third criteria, as described below.

With respect to pending claims 1 and 15 and the claims that depend therefrom, each claim describes determining a first price for the purchase order if the program has been purchased by a threshold number of subscribers belonging to the subscriber group and determining a second price, higher than the first price, if the program has not been purchased by the threshold number of subscribers belonging to the subscriber

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group. Examiner states that "*Pallakoff* discloses determining a first price for a purchase order if goods are purchased by a threshold number of subscribers belonging to a subscriber group and determining a second price, higher than the first, if the program has not been purchased by the threshold number of subscribers belonging to the subscriber group" at Col 1, Lines 40-49; Col. 4, Lines 20-33; Col. 7, Line 6 to Col. 8, Line 40; Figure 6; and Figure 3.

Applicants respectfully submit that *Pallakoff* does not describe the stated claim limitation. Instead, *Pallakoff* teaches determining a price based on aggregate demand of buyers of a product (also referred to as "Demand-Based Pricing"). See Col. 1, Lines 53-67. With demand based pricing, prices for goods or services go down as the volume of *units sold* to buyers in any given offer goes up. See *id.* Thus, a seller can "offer volume discounts to buyers acting as a group, even when the buyers may not have any formal relationship with one another." In other words, the price in *Pallakoff* is based on aggregate demand (see Col. 4, Lines 54-55; Col. 3, Lines 53-55), also referred to as a "*Demand Threshold*" (Col. 4, Lines 30-36), and not on a threshold number of subscribers. See *id.* Accordingly, *Pallakoff* does not describe "determining a first price for the purchase order if the program has been purchased by a threshold number of subscribers belonging to the subscriber group and determining a second price, higher than the first price, if the program has not been purchased by the threshold number of subscribers belonging to the subscriber group."

With respect to pending claims 1, 15, and 22, and the claims that depend therefrom, the claims also describe "a subscriber belonging to a subscriber group defined by two or more subscribers, wherein each subscriber belonging to the subscriber group maintains an independent account with the programming provider whereby the subscriber pays the programming provider in order to receive paid for programming, and wherein each subscriber belonging to the subscriber group may elect to purchase or not purchase the program". The Examiner states that *Urakoshi* discloses at least two subscribers (e.g., family members in a family) form a subscriber group and wherein each subscriber belonging to the subscriber group may elect to purchase or not purchase the program at Col. 4, Lines 3-24.

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Applicants respectfully submit that *Urakoshi* does not disclose the stated claim limitation. In *Urakoshi*, charge limits are provided for pay per view programming. See Col. 2, Lines 21-29. For example, parents in a family may set a charge limit for the children in the family. See Col. 4, Lines 17-23. The parent may password protect the charge limit feature described in *Urakoshi* to prevent the children from changing the charge limit. See *id.* Each person in the family connects through a single tuner. See Figure 1, Item 2; Col. 3, Lines 21-26. Because the family views programs using a single tuner, the entire family shares a single account. See *id.* Furthermore, because the family views programs using a single tuner, when one family member orders a pay-per-view program, each other family member must also watch the same pay-per-view program. See *id.* This is the nature of a pay per view system, depicted in Figure 1 (having a single tuner 2, image process circuit 3, and CPU 6), as well known to those skilled in the art. See Figure 1.

Thus, *Urakoshi* does not disclose the stated claim limitation for at least two reasons. First, if a first member of the family elects to purchase the program, a second member cannot elect not to purchase the program. See Figure 1, Item 2; Col. 3, Lines 21-26. In other words, if one member in the family account has purchased the program, then every member has purchased it; one family member cannot purchase a program without the others also purchasing it too. See *id.* This is necessarily the result where the family views a program using a single tuner, as depicted. See *id.* Thus, each member in the family cannot elect to purchase or not to purchase the program. See *id.*

Second, the family members in *Urakoshi* do not maintain independent accounts. See *id.* If the family did possess independent accounts, the family would not share a single tuner as depicted (See Figure 1) and the parents would not be able to password protect the children's charge limit (See Col. 4, Lines 17-23). Accordingly, *Urakoshi* does not disclose "a subscriber belonging to a subscriber group defined by two or more subscribers, wherein each subscriber belonging to the subscriber group maintains an independent account with the programming provider whereby the subscriber pays the programming provider in order to receive paid for programming, and wherein each subscriber belonging to the subscriber group may elect to purchase or not purchase the

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program". Accordingly, the claims are believed to be allowable and allowance of the same is respectfully requested.

With respect to the remaining claims, Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Knudson* in view of *Pallakoff* in further view of *Urakoshi* in further view of *Jeffers* (US Patent # 5,036,537). Claims 8, 10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Knudson* in view of *Pallakoff* in further view of *Urakoshi* in further view of *Cooper* (US Patent # 6,754,904). Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Knudson* in view of *Pallakoff* in further view of *Urakoshi* in further view of *LaRocca* (US Patent # 6,314,572). Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Knudson* in view of *Pallakoff* in further view of *Callais* (US Patent # 3,790,700).

For the reasons given above with respect to *Knudson* in view of *Pallakoff* in view of *Urakoshi*, Applicants submit that each of these rejections is overcome. Accordingly, the claims are believed to be allowable and allowance of the same is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



Randol W. Read
Registration No. 43,876
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)

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